

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Teledyne Telemetry)
 d/b/a Teledyne Electronics) Marshall County
 Map 71L, Group A, Control Map 71F, Parcel 24.00,)
 S.I. 000)
 Industrial Property)
 Tax Year 2007)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$240,600	\$2,986,700	\$3,227,300	\$1,290,920

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on December 11, 2007 in Lewisburg, Tennessee. The taxpayer was represented by registered agent Larry Burks. The assessor of property, Linda Haislip, represented herself.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 30.07 acre site improved with a 161,000[±] industrial facility used to manufacture circuit boards for various customers. Subject property is located at 1425 Higgs Road in Lewisburg, Tennessee.

The improvements on subject property were constructed from 1965-1985. Subject property differs physically from many other manufacturing facilities in the area in three respects. First, approximately 22.9% of the total building area consists of office space. Second, much of the facility is temperature and humidity controlled by an additional boiler.¹ Third, much of the interior finish is above-average in quality.

The taxpayer contended that subject property should be valued at \$2,135,625. In support of this position, the sales comparison approach was introduced into evidence.

The assessor contended that subject property should remain valued at \$3,227,300. In support of this position, the testimony and written analysis of George C. Hoch, TMA, an appraiser with the Division of Property Assessments was offered into evidence. Essentially, Mr. Hoch argued that subject property constitutes a special-purpose property and should be valued in use via the cost approach. Mr. Hoch's analysis also included a sales comparison approach which he asserted supports a value indication of \$3,285,200.

¹ According to Mr. Hoch, the manufacturing process requires a temperature of $72^{\circ} \pm 5^{\circ}$ and a humidity level of $50\% \pm 20\%$.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should remain valued at \$3,227,300 based upon the presumption of correctness attaching to the decision of the Marshall County Board of Equalization. As will be discussed below, the administrative judge finds that neither party introduced sufficient evidence to establish subject property's fair market value as of January 1, 2007, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

Since the taxpayer is appealing from the determination of the Marshall County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

Respectfully, the administrative judge finds that Mr. Burks' sales comparison approach cannot provide a basis of valuation for two reasons. First, the cost approach was not even addressed.² Second, the administrative judge finds that the three comparable sales given greatest weight by Mr. Burks cannot provide a reliable basis of valuation standing alone.

The administrative judge finds that Mr. Burks placed greatest weight on comparable sales #1, 2 and 7. The administrative judge finds that sale #7 occurred approximately ten (10) months after the assessment date and must be deemed irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events." Final Decision and Order at 3. The administrative judge finds that sale #1 contains less than one-half (1/2) of subject property's square footage. The administrative judge finds that sale #2 standing by itself, or even in conjunction with sale #1, does not constitute the minimum evidence necessary to reliably establish the market value of subject property. Moreover, the various adjustments summarized in the adjustment grid were not derived from market data. As noted in one authoritative text:

² The administrative judge recognizes that the sales comparison approach might very well have greatest probative in many instances and be accorded decisive weight in the reconciliation process. However, the administrative judge finds that the cost approach should have been addressed, especially considering the significant differences between the subject and comparables.

Sales adjustment processes require a sufficient number of sales from which to extract the adjustments. Often there may not be enough sales to provide a basis for all adjustment calculations. The appraiser should recognize and explain in the appraisal report that a lack of supporting data may either reduce the validity of the adjustments made or eliminate the possibility of applying any direct sales adjustment process. . . .

Appraisal Institute, *The Appraisal of Real Estate* at 426-27 (12th ed. 2001).

As previously stated, the administrative judge finds that the current appraisal of subject property should be affirmed based upon the presumption of correctness attaching to the decision of the Marshall County Board of Equalization. The administrative judge unequivocally rejects Mr. Hoch's assertion that subject facility constitutes a special-purpose property and should therefore be valued in use rather than in exchange.

The issue of value in use versus value in exchange has its genesis in a discussion of these concepts found at page AP-8 of the State of Tennessee Assessment Manual (1972) which provides in pertinent part as follows:

If a property is of a highly special design or use, and is of the type not commonly bought or sold in the market, then the objective concept of value prevails and other methods of estimating value must be formulated. Under a situation of this nature, the property is useful to the present owner and is of a functional design for its particular use. However, it may have little, if any, utility to buyers ordinarily forming the real estate market. Consequently, the property is said to have a value in use as opposed to value in exchange. The value of such special purpose property is generally estimated on the basis of depreciated replacement cost.

The administrative judge finds that a special-purpose property is typically defined as "[a] limited-market property with a unique physical design, special construction materials, or a layout that restricts its utility to the use for which it was built. . ." Appraisal Institute, *The Dictionary of Real Estate* at 272 (4th ed. 2002). See also Appraisal Institute, *The Appraisal of Real Estate* at 24-26 (12th ed. 2001). As explained in the same textbook:

Although most buildings can be converted to other uses, the conversion of special-purpose buildings generally involves extra expense and design expertise. Special-purpose structures include:

- Houses of worship
- Theaters
- Sports arenas

Id. at 262.

The administrative judge finds that part of the confusion in the present appeal stems from terminology. The administrative judge finds that Mr. Hoch relied on an article by Max J. Derbes, Jr., MAI which divided manufacturing plants into three basic types: general-

purpose, special-purpose and single-purpose.³ As summarized at page 30 of Mr. Hoch's report, "[s]pecial-purpose industrial facilities serve a special-purpose, although they can be converted for alternate use." In contrast, "[s]ingle-purpose improvements, such as a concrete batching plant or a refinery, exist for one purpose." The administrative judge finds that the term "special-purpose" property as used in the State of Tennessee Assessment Manual is analogous to what Mr. Derbes terms a "single-purpose improvement".

The administrative judge finds that subject property cannot be deemed a special-purpose property based upon the evidence in the record. The administrative judge finds that Mr. Hoch did not prepare a highest and best use analysis which seemingly constitutes the starting point in determining whether a particular facility comprises a special-purpose property. Similarly, in response to the administrative judge's query, Mr. Hoch testified that he was unsure what the cost would be to convert the subject to an alternate use.

The administrative judge finds Mr. Hoch seemingly placed great emphasis on the fact subject property was originally constructed for its current use. The administrative judge finds that most manufacturing facilities are constructed for a specific manufacturing process. The administrative judge finds that a manufacturing facility cannot be considered a special-purpose property simply because it was constructed for a specific manufacturing process and continues to be used for its original purpose.

The administrative judge finds Mr. Hoch essentially testified subject property should be classified as special-purpose because of (1) the quality of the interior finish; (2) the manufacturing process; (3) the high percentage of office space; and (4) the fact much of the facility is temperature and humidity controlled.

Respectfully, the administrative judge finds that subject property does not have a unique physical design, special construction materials, or a layout that restricts its use to manufacturing circuit boards. The administrative judge finds that the only "special" or unusual feature about the building is that it has an additional boiler to control the temperature and humidity in portions of the plant. The administrative judge finds that although this feature may not be needed by a potential buyer of subject property, it in no way precludes alternative uses. The administrative judge finds that many manufacturing facilities converted to alternative uses have superadequacies.

The administrative judge finds that Mr. Hoch's comparable sales have no probative value insofar as a value in use appraisal is concerned. The administrative judge finds that none of the sales concerned facilities that manufacture circuit boards. Presumably, only sales of circuit board manufacturers should be considered if subject facility constitutes a special-purpose property.

³ Derbes, Max J. Jr., MAI, *Non-Comparable Industrial Sales*, Appraisal Journal at 40 (January 2002).

The administrative judge finds it appropriate to briefly observe that adoption of Mr. Hoch’s approach would result in a fundamental change in how industrial facilities are appraised in Tennessee for ad valorem tax purposes. Indeed, the administrative judge has had numerous occasions over the years to hear appeals involving much more “specialized” properties that neither the assessors of property nor Division appraisers argued should be classified as special-purpose and valued in use.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$240,600	\$2,986,700	\$3,227,300	\$1,290,920

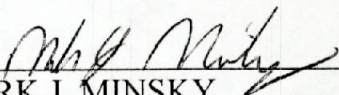
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 13th day of December, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Larry W. Burks
Linda Haislip, Assessor of Property